

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 132

May 13, 1998, 12:17 pm
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RELIGIOUS AND CHARITABLE DONATIONS/Final Passage

SUBJECT: Religious Liberty and Charitable Donation Protection Act . . . S. 1244. Final passage, as amended.

ACTION: BILL PASSED, 100-0

SYNOPSIS: As passed, S. 1244, the Religious Liberty and Charitable Donation Protection Act, will protect churches and charities from being sued by bankruptcy trustees trying to undo tithes or charitable donations. An amount given before a person filed for bankruptcy will be protected if it does not exceed 15 percent of that person's income; a larger percentage will be protected if that person consistently has given a larger amount. After filing for bankruptcy, a person will be allowed to give up to 15 percent of his or her income.

Those favoring final passage contended:

Section 548(A)(1) of the Bankruptcy Code prohibits any transfer of assets on the eve of bankruptcy which is intended to hinder, delay, or defraud anyone. This bill will not amend that section. All it will do is prevent its misapplication. When that section was enacted it was not intended to interfere with people's normal religious or charitable giving. Unfortunately, there have been a spate of recent suits against churches across the country to recover tithed amounts. Many churches run on very tight budgets; they cannot afford to have to give back large lump sums that have been tithed to them over the course of a year. More importantly, they should not have to. This bill will protect churches from such unjust suits.

Another part of current bankruptcy law requires people who have declared bankruptcy to use all of their disposable income to repay their creditors. This part of law was never meant by Congress to say that a person whose religious beliefs required tithing could not pay that tithe because it was "disposable" income. Again, though, Congress' intent is being misinterpreted. In this case, the misinterpretation shows a distinct hostility to religious faith. The courts have ruled that bankruptcy debtors may have reasonable

(See other side)

YEAS (100)				NAYS (0)		NOT VOTING (0)	
Republican (55 or 100%)		Democrats (45 or 100%)		Republicans (0 or 0%)	Democrats (0 or 0%)	Republicans (0)	Democrats (0)
Abraham	Hutchinson	Akaka	Johnson				
Allard	Hutchison	Baucus	Kennedy				
Ashcroft	Inhofe	Biden	Kerrey				
Bennett	Jeffords	Bingaman	Kerry				
Bond	Kempthorne	Boxer	Kohl				
Brownback	Kyl	Breaux	Landrieu				
Burns	Lott	Bryan	Lautenberg				
Campbell	Lugar	Bumpers	Leahy				
Chafee	Mack	Byrd	Levin				
Coats	McCain	Cleland	Lieberman				
Cochran	McConnell	Conrad	Mikulski				
Collins	Murkowski	Daschle	Moseley-Braun				
Coverdell	Nickles	Dodd	Moynihan				
Craig	Roberts	Dorgan	Murray				
D'Amato	Roth	Durbin	Reed				
DeWine	Santorum	Feingold	Reid				
Domenici	Sessions	Feinstein	Robb				
Enzi	Shelby	Ford	Rockefeller				
Faircloth	Smith, Bob	Glenn	Sarbanes				
Frist	Smith, Gordon	Graham	Torricelli				
Gorton	Snowe	Harkin	Wellstone				
Gramm	Specter	Hollings	Wyden				
Grams	Stevens	Inouye					
Grassley	Thomas						
Gregg	Thompson						
Hagel	Thurmond						
Hatch	Warner						
Helms							

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

entertainment budgets during the course of their repayment plans. In other words, some entertainment expenses are counted as necessary expenses. Thus, a debtor may go to the movies, go on vacation, or gamble on horses, but that same debtor cannot give any money to his or her church.

The hostility can be extreme. For instance, in the 1995 case of "*In re Tessier*," a couple filed for bankruptcy under Chapter 13. Out of their net monthly income of \$1,610, they proposed to continue making contributions to their church in the amount of \$100 per month. This couple had deeply-held religious convictions about donating to the church as part of the exercise of their religious faith. They proposed spending only \$200 per month on food, and nothing on entertainment, recreation, health insurance, life insurance, cable television, telephone, or even electrical utility service. Nevertheless, the Bankruptcy Court still refused to let them make the proposed contributions to their church. This bill will stop this misapplication of the law by allowing any debtor to have a repayment plan that allows him or her to tithe up to 15 percent of his or her income.

We thought that we had solved this problem when we passed the Religious Freedom Restoration Act (RFRA). However, the Supreme Court, in *City of Boerne v. Flores* -U.S.-, 117 S. Ct. 2157 (1997), held the RFRA unconstitutional as it applied to the States. That decision has thrown into doubt the validity of the RFRA's constitutionality as it applies to Federal law. In a recent court case, the Justice Department took the position that tithing was not allowable for debtors. Senators pressured the Justice Department to reverse itself. Thankfully, President Clinton agreed that it should reverse its position, and ordered it to do so. The most recent legal action has been a divided decision by the Eighth Circuit Court of Appeals that the RFRA is constitutional for Federal law purposes, and that tithing is protected in bankruptcy proceedings.

The legal uncertainty that has existed has encouraged bankruptcy courts, in hundreds if not thousands of cases, to pursue churches and debtors for tithing. Passage of this bill will stop this abuse by ending the uncertainty. People should not be discriminated against for their faith. We therefore urge our colleagues to join us in passing this bill.

No arguments were expressed in opposition to final passage.